

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

STEVEN BUTLER,

Plaintiff,

vs.

DEPUTY JEFFERS, (90255);  
DEPUTY BLYTHE, (90281); DEPUTY  
BOLDEN, (90277); DEPUTY  
DANBURG, (90279); and DEPUTY  
ULLMAN, (90283);

Defendants.

**4:24CV3002**

**MEMORANDUM AND ORDER**

This matter is before the court on two motions for service of the Amended Complaint, Filing Nos. 11 and 12, and a motion requesting this Court enter a progression order, Filing No. 13, filed by non-prisoner Plaintiff Steven Butler (“Plaintiff”) who is proceeding pro se. Plaintiff’s Motions seeking service of the Amended Complaint, Filing No. 9, are premature as the Court has not yet performed an initial review of the Amended Complaint. To the extent Plaintiff moves this Court to enter an order progressing the case, allowing for service of process, discovery, and briefing by the parties, Filing No. 13, that request is also premature for the same reason.

“Rule 4 requires plaintiffs to serve each defendant with a summons and a copy of the complaint. But district courts cannot issue summonses in *in forma pauperis* [non-prisoner and] prisoner cases until after screening the complaint for frivolousness and other defects under 28 U.S.C. §§ 1915(e) and 1915A(b).” *See Welch v. Byrd*, No. 4:23CV3186, 2024 WL 3292696, at \*1 (D. Neb. July 3,

2024) (quoting *Jackson v. Herrington*, 393 F. App'x 348, 353 (6th Cir. 2010) (internal citation omitted)).<sup>1</sup>

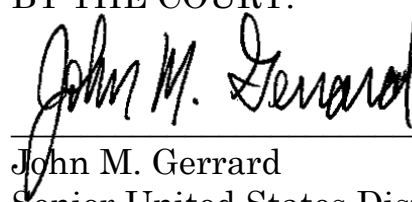
Here, because Plaintiff sought leave to proceed without payment of fees in this case, Filing No. 2, and such leave was granted by this Court, Filing No. 5, the Court must first review Plaintiff's in forma pauperis complaint to determine whether summary dismissal is appropriate. *See* 28 U.S.C. § 1915(e). As the initial review has yet to be performed, Plaintiff's motion for service of the Amended Complaint and an order progressing the case are premature.

IT IS THEREFORE ORDERED:

Plaintiff's motions for service, Filing Nos. 11 and 12, and his motion for case progression, Filing No. 13, are denied as premature. The next step in Plaintiff's case will be for the Court to conduct an initial review of Plaintiff's claims to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2). The Court will conduct this initial review in its normal course of business.

Dated this 19th day of February, 2025.

BY THE COURT:

A handwritten signature in black ink, reading "John M. Gerrard", is written over a horizontal line.

John M. Gerrard  
Senior United States District Judge

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<sup>1</sup> Under the statute, following the granting of a motion to proceed in forma pauperis, a court must review and dismiss a complaint, or any portion of it, that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).